

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CHRISTOPHER VERTICELLI,	:	
<i>Plaintiff,</i>	:	
	:	
v.	:	CIVIL ACTION NO. 25-CV-1463
	:	
COMMONWEALTH OF	:	
PENNSYLVANIA, DEPARTMENT OF	:	
CORRECTIONS, <i>et al.</i>	:	
<i>Defendants.</i>	:	

ORDER

AND NOW, this 15th day of May, 2025, upon consideration of Plaintiff Christopher Verticelli's Motion to Proceed *In Forma Pauperis* (ECF No. 3), Prisoner Trust Fund Account Statement (ECF No. 4), and *pro se* Complaint (ECF No. 1), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Christopher Verticelli, #NE-1839, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Superintendent of SCI Phoenix or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Verticelli's inmate account; or (b) the average monthly balance in Verticelli's inmate account for the six-month period immediately preceding the filing of this case. The Superintendent or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Verticelli's

inmate trust fund account exceeds \$10.00, the Superintendent or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Verticelli's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is **DIRECTED** to send a copy of this Order to the Superintendent of SCI Phoenix.

4. The Complaint is **DEEMED** filed.

5. For the reasons stated in the Court's Memorandum, the Complaint is **DISMISSED** in part pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim, as follows:

- a. The claims against the Pennsylvania Department of Corrections ("DOC"), Fourteenth Amendment due process claims, and claims for declaratory and injunctive relief are **DISMISSED WITH PREJUDICE**.
- b. The retaliation claims under the First Amendment and denial of mental healthcare claims under the Eighth Amendment are **DISMISSED WITHOUT PREJUDICE**.
- c. The Eighth Amendment excessive force claims and state law assault and battery claims pass statutory screening and may proceed to service.

6. The Clerk of Court is **DIRECTED** to send Verticelli a blank copy of the Court's standard form complaint for prisoners to use to file a complaint bearing the above civil action number.

7. Verticelli is given thirty (30) days to file an amended complaint in the event he can allege additional facts to state a plausible First Amendment retaliation and Eighth Amendment denial of mental healthcare claims, which have been dismissed without prejudice. Any amended complaint shall identify all defendants in the caption of the amended complaint in addition to identifying them in the body of the amended complaint, shall state the basis for Verticelli's claims against each defendant, and shall bear the title "Amended Complaint" and the case number 25-1463. If Verticelli files an amended complaint, his amended complaint must be a complete document that includes all the bases for his claims, including claims that the Court has not yet dismissed if he seeks to proceed on those claims. **For example, if Verticelli files an amended complaint, he must include in that amended complaint the allegations supporting his Eighth Amendment excessive force claims and state law assault and battery claims, which claims have not been dismissed, if he seeks to proceed on those claims.** Claims that are not included in the amended complaint will not be considered part of this case. When drafting his amended complaint, Verticelli should be mindful of the Court's reasons for dismissing his claims as explained in the Court's Memorandum. Upon the filing of an amended complaint, the Clerk shall not make service until so **ORDERED** by the Court.

8. If Verticelli does not file an amended complaint the Court will direct service of his initial Complaint on Defendants Lt. Randall and Superintendent Terra. Verticelli may also notify the Court that he seeks to proceed on his excessive force and state law claims against these Defendants rather than file an amended complaint. If he

files such a notice, Verticelli is reminded to include the case number for this case, 25-1463.

9. The time to serve process under Federal Rule of Civil Procedure 4(m) is **EXTENDED** to the date 90 days after the Court issues summonses in this case if summonses are issued.

BY THE COURT:

/s/ Gerald J. Pappert

Gerald J. Pappert, J.